IN THE UNITED STATED DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LISA LAMBERT	)	
	)	
	)	
v.	)	
	)	Civil Action No. 96-247
	)	Judge Sean J. McLaughlin
WILLIAM WOLFE; KEITH BARLETT, JOHN RAUN; JAMES EICHER; and VICTORIA KORMANIC	)	Magistrate Judge Susan Paradise Baxter
	)	
	)	Electronically Filed

DEFENDANTS' STATEMENT OF MATERIAL FACTS NOT IN DISPUTE

AND NOW, come the Defendants, Wolfe, Bartlett, Raun, and Kormanic by their attorneys, Thomas W. Corbett, Jr., Attorney General, Robert A. Willig, Senior Deputy Attorney General, and Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section and respectfully submits the following statement of material facts not in dispute pursuant to Local Rule 56.1 in support of their motion for partial summary judgment:

1. Plaintiff, Lisa Lambert, is an inmate currently housed in a correctional facility in Massachusetts. At all times relevant to this suit, she was an inmate incarcerated at the Pennsylvania State Correctional Institution-Cambridge Springs (hereinafter SCI-Cambridge Springs).

2. SCI-Cambridge Springs opened in 1992 and started accepting inmates on March 30th of that year (*See* Deposition of William Wolfe, attached to the Defendants' Motion for Partial Summary Judgment as Attachment A, hereinafter Wolfe Depo., pp. 10, 11). On September 25, 1992, Cambridge Springs had a population of 148 inmates (*See* Attachment B attached to the Defendants' Motion for Partial Summary Judgment)(*See*

also Wolfe Depo. p. 209). William Wolfe was the Superintendent of SCI-Cambridge springs. By the time of his deposition in the Summer of 1997, the daily average population of SCI-Cambridge Springs had swelled to approximately 580 inmates (*Id.*, p. 12).

3. During Plaintiff's deposition of Correctional Officer (CO) Raun, Plaintiff's counsel listed "people whose names have come up in one fashion or another in connection with allegations of inappropriate conduct, not always sexual, in relation to an inmate…." prior to the time of Raun's deposition in 1998 (*See* Deposition of John Raun, attached to the Defendant's Motion for Partial Summary Judgment as Attachment C, hereinafter Raun Depo., p. 23). This list complied by the Plaintiff contained twenty-four names (*Id.*, p. 23). At most that is twenty-four allegations in six years (1992-1998) or an average of just four (4) a year. If we take the lowest inmate population of 148, four allegations per year amounts to approximately 2.7% of the inmates lodging fraternization allegations of all manner and degree, unfounded and founded, against prison staff every year. We know, however, that the SCI-Cambridge Springs inmate population grew larger through the years than 148 (Wolfe Depo. p. 209-213). If we take the highest population figure of record, 580, that amounts to .7% of the inmates lodging fraternization claims against the staff on a yearly basis.

4. There were twelve (12) confirmed cases of staff on inmate sexual activity, of all kinds and degrees, from 1992 up to Superintendent Wolfe's deposition in 1997 (*Id.*, p. 109). This amounts to approximately 2.4 confirmed cases of sexual abuse a year or 1.6% of the inmate population of 148 and .4% of the inmate population of 580.

5. The allegations of misconduct outlined in the Complaint end in 1994. The numbers cited above run until 1997 (12) and 1998 (24), three and four years after the misconduct alleged in the Complaint. There were seven (7) allegations of inappropriate social or sexual contacts between staff and inmates from 1992 until January of 1995 (*See* Attachment D attached to the Defendants' Motion for Partial Summary Judgment). This is an average of 2.3 allegations a year giving numbers very close to the 2.4 allegations a year cited above.

6. The Code of Ethics (*See* Attachment E attached to the Defendants' Motion for Partial Summary Judgment) is the Department of Corrections (DOC) most significant document on fraternization between staff and inmates (Wolfe Depo. p. 56). Various portions of this document touch upon the relationships between staff and inmates, staff responsibilities in the handling of inmates, and how fraternization between the two groups is strictly prohibited (*Id.*, pp. 56-61). Each and every "Department of Corrections employee receives and signs for the" Code of Ethics at the beginning of their tenure with the Department (*Id.*, p. 61)(*See also* Attachment F attached to the Defendants' Motion for Partial Summary Judgment). They are also trained and advised in the contents of the Code (*See* Excerpt of Deposition of Vaughn Davis, attached to the Defendants' Motion for Partial Summary Judgment as Attachment G, hereinafter Davis Depo., p. 64). DOC employees are placed on notice as soon as they are hired not to engage in inappropriate relations with inmates.

7. Wolfe had on-going conversations with Mary Byrd, the Superintendent at SCI-Muncy, on sex abuse of inmates (Wolfe Depo. p. 54). SCI-Muncy is the only other all female prison in the State. Wolfe was always concerned about the possibility of such

abuse and had zero tolerance for it (*Id.*, pp. 17-19, 51, 52, 53, 69). He characterized such abuse as "reprehensible" and "one of [his] biggest fears in life." (*Id.*, pp. 19, 53).

8. Mike Wolanin, an investigator at the Office of Professional Responsibility, stated, "[m]y take on Wolfe was he had zero tolerance for problems up at Cambridge Springs regarding any kind of sexual" abuse "and [Wolfe's] concern is if its going on, [the offending staff member] shouldn't be there." (*See* Excerpt of Deposition of Mike Wolanin, attached to Defendants' Motion for Partial Summary Judgment as Attachment H, hereinafter Wolanin Depo., p. 74). Mr. Wolanin continued, "like I said, [Wolfe] had zero tolerance for fraternization issues at the institution." (*Id.*, p. 75). When Wolanin informed Wolfe that he had interviewed a staff member suspected of sexually abusing an inmate, Wolfe replied, "if the guy's dirty, he's dirty, he doesn't belong here." (*Id.*, p. 83).

9. Ronald Lazenby, at one point the Intelligence Captain at SCI-Cambridge Springs responsible for investigating allegations of sexual abuse, said this about Superintendent Wolfe:

> Q (KRAKOFF): Now, did you have any discussions with Superintendent Wolfe in connection with how he viewed the level of sexual abuse or exploitation at the prison?
>
> A (LAZENBY): He would not tolerate it whatsoever. He actively went after people, had me actively go after people.
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> ***
>
> A: This institution has always actively --- I don't know if that's the word I want --- actively went after people. It's never been condoned….

(*See* Deposition of Ronald Lazenby, attached to Defendants' Motion for Partial Summary Judgment as Attachment I, hereinafter Lazenby Depo., pp. 35, 135-136). When asked whether he felt “any reluctance about investigating fellow officers in connection with possible sexual misconduct,” Lazenby replied, “[a]bsolutely not. They’re dirty then they need to be cleaned out.” (*Id.*, p. 145).

10. CO Raun related what he and other CO’s were thinking when various members of the Cambridge Springs staff were physically removed from the prison grounds due to confirmed allegations of sexual abuse. Raun explained that such removals were “an indication of what not to do at Cambridge Springs and it was a message that was sent out amongst everybody that was working at Cambridge Springs. That it was like zero tolerance for any type of sexual infractions or stepping across the line is what we call it.” (Raun Depo., pp. 16-17). Raun continued:

> Q (KRAKOFF): Now, you had testified earlier that there was zero tolerance at Cambridge Springs in connection with inappropriate relations between --- inappropriate sexual relations between members of the staff and inmates; is that correct?
>
> A (RAUN): Yes I did.
>
> Q: Okay. And when and how did you first become aware of the zero tolerance policy?
>
> A: See, I was the sixth one hired at the institution and as far as I can remember back the superintendent at that time, Captain Lazenbee, had worked with female inmates at SCI ---.
>
> Q: Muncy?
>
> A: Nope, Waynesburg. That was a female institution. He was then the captain in charge and with his experience and his policies that he had been through --- us being new off the streets it was stressed from that point. From the time I started in corrections and which I continued on telling the officers that were hired as an area training Sergeant, Sergeant Coffee, all the sergeants that were on there. It was always part of the criteria that we went ahead and we told these people that there was zero tolerance for it. (Raun Depo. pp. 24-25)
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> ***
>
> Q: Do you remember any efforts by the administration, meaning Superintendent Wolf[e], Deputy Superintendent [Utz], Deputy

> Superintendent [Kormanic], with respect to announcing and reinforcing the policy of zero tolerance?
>
> A: I believe that it was designated that we get the information relayed to us through the captain of the guard that this is the institution's policy that there is zero tolerance for sexual harassment. (Raun Depo, pp. 27-28)
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> ***
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> A:…like I said, prior to this, the sexual harassment policy was read to us at role call on numerous occasions. The code of ethics books was --- they were assigned to us, yes, and we were told that we were to adhere to those policies. (Raun Depo. p. 28).

11. Sandra Wolfgang, a psychologist at SCI-Cambridge Springs, had information about alleged staff on inmate abuse but did not alert prison authorities. Wolfe explained:

> …when [Wolfgang] first started with the department, I had learned later on that she had received information on a case, and I don't remember the specific details of it. And I was infuriated that she did not pass this information along to us. I very firmly told her that within the confines of this institution, that the client/therapist relationship does not exist…when it comes to the safety and security of this institution…She was very dismayed at me. She was hired from the street. As I said, and I don't remember the exact investigation, but it came to my attention early in her career here, that she had information through therapy sessions or counseling sessions with people on her caseload, that she had some knowledge…I was extremely upset. I gave her holy hell and told her under no uncertain circumstances that anything related to the safety and security of this institution is not governed by therapist/client relationship.

(Wolfe Depo. pp. 174-175). Wolfgang confirmed Wolfe's testimony, "[t]he Superintendent made it crystal clear, okay. That in any case like this if you hear in any way, shape or form in any context that staff are engaged in sexual behavior with inmates, it is your duty to report to [Wolfe], that that is a breach of security to the institution." (*See* Deposition of Sandra Wolfgang, attached to Defendants' Motion for Partial Summary Judgment at Attachment J, hereinafter Wolfgang Depo., p. 170).

12. Attachment D is "a list by name and job title, every SCI-Cambridge Springs staff member who was alleged by an inmate or another staff member to have had inappropriate social or sexual contact with a SCI-Cambridge Springs inmate." The list runs from 1993 to 1998. Attachment D shows that every one of these allegations was investigated by either Cambridge Springs staff (Bartlett, Lazenby, Lieutenant Beck, Captain Scott) and/or referred to OPR for investigation.

13. Bartlett, at one time an Intelligence Captain like Lazenby, testified that it was Superintendent Wolfe who would assign investigations to him (*See* Deposition of Keith Bartlett, attached to Defendants' Motion for Partial Summary Judgment as Attachment K, hereinafter Bartlett Depo., pp. 21-22). Lazenby testified that Wolfe assigned him investigations (Lazenby Depo. pp. 19-20). Attached to the Defendants' Motion for Partial Summary Judgment are several examples of internal SCI-Cambridge Springs memoranda showing Wolfe ordering his investigative staff to look into allegations of sexual abuse (*See* Attachment L).

14. There are four documents included in Attachment L not from Wolfe but which show that Wolfe ordered investigations. Bartlett states in his December 20, 1994 memo to Wolfe, "[p]er your memo 'Request for Investigation' dated December 5, 1994…." Beck notes in his March 25, 1996 memo, "[i]nitial investigation ordered and authorized by Supt. Wolfe…." At the end of the second paragraph of his March 26, 1996 memo, Beck notes "that the Superintendent wanted an official investigation conducted at once to be done by Lt. Beck." Finally, Wolfe wrote on the bottom of Lazenby's May 29, 1997 memo, "Capt L. Please interview Lt Manski ASAP and keep me advised." Whenever Superintendent Wolfe felt that an investigation into allegations of sexual abuse

would be better handled by OPR as opposed to his own Cambridge Springs investigators, he requested OPR support through his superiors (*See* Attachment M attached to Defendants' Motion for Partial Summary Judgment).

15. Wolfe testified, "certainly part of our strategy, too, as a department, was to take and investigate. Based on the results of the investigation take very swift and decisive action and prosecute where we believed that there was sufficient evidence to file criminal charges with the District Attorney's office." (Wolfe Depo. p. 69). Attachment D shows that some employees resigned, Wolfe fired others, and in some instances, he had them criminally prosecuted. The documentation included at Attachment N shows some of the actions Superintendent Wolfe took:

> a. Wolfe barred CO Eicher from the prison grounds. Any contact with Eicher was to be documented and reported immediately. Wolfe suspended Eicher pending the investigation that Wolfe had put in motion, subsequently fired him, then ultimately had him criminally charged resulting in a one and half (1 ½) to three (3) year period of incarceration.
>
> b. Wolfe barred Food Service Supervisor Walton from prison grounds. Wolfe suspended Walton pending the investigation that Wolfe had put in motion. He fired Walton, Walton was criminally charged and convicted, and ordered to serve a three (3) to twenty-four (24) month prison term.
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> c. Wolfe barred CO Trainee Hammers from prison grounds.
>
> d. Wolfe barred staff member Miller from prison grounds then fired him. Miller was ultimately criminally charged, convicted, and ordered to serve a three (3) to twenty-four (24) months less one day term of incarceration.

16. Staff within the Institution knew when an employee was fired or escorted off the grounds (*See e.g.* Wolfe Depo. p. 94-95)(Raun Depo. pp. 15-17) and such disciplinary action "reaffirmed the code of ethics" in Superintendent Wolfe's words (Wolfe Depo. p. 95). As CO Raun stated, when people were escorted off the grounds it certainly "was an indication of what not to do at Cambridge Springs and it was a message

that was sent out amongst everybody that was working at Cambridge Springs." (Raun Depo. pp. 16-17).

17. Superintendent Wolfe expressed to several members of his staff his desire to confront the issue of staff on inmate sexual abuse. Lieutenant Beck explained that Wolfe would raise this issue at staff and operations meetings as well as when he was talking to Beck one-on-one (*See* Deposition of Roger Beck, attached to the Defendants' Motion for Partial Summary Judgment as Attachment O, hereinafter Beck Depo., p. 78). Wolfe told Beck that there should be "[m]ore training on sexual harassment. The introduction of cameras…" (*Id.*, p. 78). Bartlett remembers speaking with Wolfe about the issue of sexual abuse. He remembered that "it was like a think tank setting. What can we do to try and help this situation out." (Bartlett Depo. p. 73). There was more than one of these "think tank" sessions (*Id.*, p. 76). A "dialogue…had developed between [Vaughn Davis] and the Deputy Commissioner Tom Fulcomer, including Superintendent Wolfe and Deputy Kormanic" about developing and presenting some type of ethics training emphasizing sexual misconduct concerns to the staff at SCI-Cambridge Springs (Davis Depo, pp. 115-116).

18. Mr. Davis came to SCI-Cambridge Springs several times to present an hour long block of instruction specifically tailored to the code of ethics as it related to fraternization/sexual relations between staff and inmates (Wolfe Depo, pp. 66-67)(Davis Depo, pp. 113-114)(*See* Deposition of Victoria Kormanic, attached to the Defendants' Motion for Partial Summary Judgment at Attachment P, hereinafter Kormanic Depo., p. 121). Davis' presentation was videotaped and the Defendants have sent this tape to the Court (*See* Attachment Q attached to Defendants' Motion for Partial Summary

Judgment). Attendance at Mr. Davis' lectures was mandatory for all staff at SCI-Cambridge Springs (Wolfe Depo. p. 67). Moreover, all new incoming staff were required to watch the tape of Davis' lecture (*Id.*, p. 68). Staff were required to sign a form indicating that they have viewed the tape, had read the code of conduct, understood both, and that they would abide by the code (*See* Attachment R attached to Defendants' Motion for Partial Summary Judgment).

19. Davis' tape was not the only tape Wolfe used in training his staff. Deputy Kormanic explained that Wolfe had approved the purchase of other training tapes including, but not limited to, ones on "Professionalism in Ethics" and Cross-Gender Supervision." (Kormanic Depo. p. 114-115). Wolfe was able to have cameras installed at various places in the prison in 1997 (*See* Attachment S attached to Defendants' Motion for Partial Summary Judgment)(Beck Depo. pp. 79-81). Beck reported Wolfe as noting that the cameras "would enhance our ability to monitor staff and inmate movement." (*Id.*, p. 81).

20. Attachment D shows that Bartlett was the investigator in eight (8) cases involving alleged sexual abuse of inmates. In four (4) of these investigations, the target of the investigation resigned and left the DOC. In one (1), the case of CO Eicher, criminal charges were filed and the target went to jail. In another, the staff member was fired leaving two (2) allegations of staff misconduct that Bartlett investigated as unfounded.

21. The first document in Attachment M is an October 12, 1994 memo from Wolfe to the DOC Commissioner. Wolfe writes that an investigation involving one of Plaintiffs many allegations of sexual abuse was closed. Wolfe continued, however,

"[s]ince that time Captain Bartlett has received information that has had me reconsider this case and reopen the investigation." Wolfe explained to the Commissioner that "[a]fter meeting with Deputy Kormanic and Captain Bartlett, we believe it would be in the best interest of the institution that we get" OPR involved. In the February 8, 1995 memo included with Attachment M, Wolfe writes, "I concur with Captain Bartlett's recommendation to have all parties involved polygraphed. As Captain Bartlett pointed out, we have an eyewitness who has made a sworn statement as well as sworn statements from both the staff member and inmate involved."

22. Plaintiff made allegations of sexual harassment against CO Raun in April/May of 1994, OPR investigated those allegations, and it was determined that those allegations were unfounded (*See* Attachment T attached to Defendants' Motion for Partial Summary Judgment)(Raun Depo. pp. 60, 64, 98, 112).

23. Plaintiff lodged a second set of allegations against CO Raun that he had assaulted her on October 4 or 5, 1994 leaving her with bruises (*See* Deposition of Lisa Lambert, attached to Defendants' Motion for Partial Summary Judgment as Attachment U, hereinafter Lambert Depo., p. 8). She reported this alleged assault eight (8) or nine (9) days later to Sandra Wolfgang who in turn altered prison authorities of Plaintiff's allegations (Wolfgang Depo., pp. 90, 95).

24. In an unrelated act, on October 18, 1994, the Honorable Lawrence F. Stengel of the Court of Common Pleas of Lancaster County ordered that Plaintiff be produced by November, 15, 1994 (*See* Attachment V attached to Defendants' Motion for Partial Summary Judgment). Plaintiff was in the process of challenging her Murder conviction in the state courts. Plaintiff had to travel to Lancaster County to attend and

testify in her state Post-Conviction Relief Act (PCRA) hearing. SCI-Cambridge Springs issued Plaintiff an Authorized Temporary Absence, or A.T.A., to attend the PCRA hearing pursuant to Judge Stengel's order (*See* Attachment W attached to Defendants' Motion for Partial Summary Judgment).

25. Plaintiff returned to SCI-Cambridge Springs on November 22, 1994 (Kormanic Depo., p. 13). Superintendent Wolfe, on Kormanic's suggestion, ordered that Plaintiff be videotaped and photographed upon her return to the Institution during her routine intake medical exam (*Id.,* p. 16, 23). Wolfe explained, "I believe it was Deputy Kormanic came to me based upon allegations that Ms. Lambert had made against the institution and our staff, she suggested it would be prudent that we draw a base line and have a documentation for [Plaintiff's] protection, as well as ours." (Wolfe Depo. pp. 220) (*See also Id.*, pp. 222-225). Kormanic explained that one of the reasons this decision was made was because prison officials were concerned about the allegation of abuse Plaintiff had lodged against CO Raun prior to going A.T.A. to Lancaster County (Kormanic Depo. p. 14). Prison authorities wanted to establish an evidentiary "baseline" showing Plaintiff's physical condition upon her return to SCI-Cambridge Springs (*Id*., pp. 16-18)(Wolfe Depo. pp 222-225).

26. Plaintiff was taken to a private shower area (Kormanic Depo., p. 21). She refused to be medically examined with her brassiere and panties on and refused to be videotaped/photographed (*Id*., pp. 22-23, 30). Deputy Kormanic was summoned (*Id.*, p. 23). Kormanic informed Plaintiff that she would not be videotaped/photographed completely nude, that she would have her brassier and panties on, that the videotape and

photographs would remain in Kormanic's possession, and that Plaintiff must comply (*Id.*, pp. 23, 30-33).

27. Plaintiff finally complied (*Id.*, p. 34). She was taped/photographed while wearing her undergarments, not while completely nude. There were no men present in the private shower area when Plaintiff undressed down to her undergarments nor when the videotape and photographs were taken (*Id.*, p. 43). Present in the shower area were Deputy Kormanic, Nurse Pietzak, Sergeant Chase (who was holding the video camera), and CO Brenda Jones, all women (*Id.*, pp. 39-40). Lieutenant Beck, a man, did nothing more than escort Plaintiff into the building and escort her from the building (*Id.*, p. 40). He was not present in the private shower area.

28. Deputy Kormanic took possession of the videotape and photographs (instantly developed poloroid photos), and they never left her possession (*Id.*, p. 36). In fact, they never left a locked file cabinet in her office until she was deposed on June 3, 1997 (*Id.*, p. 38). No videotape or photos were taken while Plaintiff showered and dressed after the visual inspection in her undergarments (*Id.*, p. 42).

29. Both Wolfe and Kormanic explained that whenever there was a special or unique situation, such as an inmate who has recently lodged an assault allegation against a staff member returning to the prison, or when an inmate is placed back into the Restricted Housing Unit (RHU) as Plaintiff was upon her return, it was routine to videotape/photograph the inmate (Kormanic Depo., pp. 23-24)(Wolfe Depo., p. 226-230). Department of Corrections Administrative Directive, BC-ADM 203, *Searches of Inmates and Cells*, Paragraphs VII C.1. b & c read:

C. Strip Search:

> 1. A strip search may be conducted when necessary to the security and good order of the institution, including the following situations:
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> ***
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> b. Upon an inmate's return from outside activities, supervised outside leave and furloughs.
>
> c. Upon reception, **return from court** and return after inmate has left the institution reservation for any other reason.

(*See* Attachment Z attached to Defendants' motion for Partial Summary Judgment (emphasis added).

30. Attorney Jules Epstein, who had represented Plaintiff at one point in her criminal proceedings, sent a letter to Superintendent Wolfe and DOC Commissioner Joseph Lehman complaining of, amongst other things, his client's treatment on November 22, 1994. Superintendent Wolfe wrote a letter to Commissioner Lehman explaining what had occurred and why. Lehman in turn sent a letter to Mr. Epstein explaining what had occurred and why (*See* Attachment AA attached to Defendants' Motion for Partial Summary Judgment).

31. Plaintiff alleges that between May 1993 and October 1994, "on several occasions," CO Raun "kissed and fondled [her] against her will…He also maliciously and sadistically beat her several times." (*See* Doc #. 1, ¶ 11). During her deposition, Plaintiff stated that these separate and distinct assaults occurred several times a week during this time frame (Lambert Depo., p. 32). These alleged assaults occurred "whenever [Raun] found [Plaintiff] in deserted areas of" Luter Hall, a building on the SCI-Cambridge Springs grounds (Lambert Depo., p. 26). Plaintiff filed her complaint in the instant matter on August 20, 1996. (*See* Doc. # 1).

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **Defendants' Statement of Material Facts Not in Dispute** was served upon the following by ECF this 26th day of October 2006:

Angus Love
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I hereby certify that a true and correct copy of the within **Defendants' Statement of Material Facts Not in Dispute** was served upon the following via first class mail this 26th day of October 2006:

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Date: October 26, 2006